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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,944	01/16/2004	Chris Angeletti	P00599-US-0 (16169.0075)	8233
22446	7590	04/03/2006	EXAMINER	
ICE MILLER LLP ONE AMERICAN SQUARE, SUITE 3100 INDIANAPOLIS, IN 46282-0200			BUI, LUAN KIM	
			ART UNIT	PAPER NUMBER
			3728	
DATE MAILED: 04/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,944

Applicant(s)

ANGELETTI ET AL.

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-54 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

Group I: Claims 1-43 and 47-49, drawn to a combination of a pallet and a re-useable shipping pallet, classified in Class 206, subclass 448 and others.

Group II: Claims 44-45, drawn to a subcombination of a re-useable shipping pallet with foldable posts, classified in Class 220, subclass 6 and others.

Group III: Claim 46, drawn to a subcombination of a re-useable shipping pallet with a telescoping member depending on the size of the windshield, classified in Class 220, subclass 8 and others.

Group IV: Claim 50, drawn to a subcombination of a first lower resilient stop, classified in Class 52, subclass unknown.

Group V: Claims 53-54, drawn to a subcombination of a re-useable shipping pallet with at least one side restraint for engaging at least one windshield, classified in Class 108, subclass unknown.

The inventions are distinct, each from the other because of the following reasons:

Inventions II, III, IV and V are independent and distinct because there are no relationship between the foldable posts, the telescoping member, the first lower resilient stop and the at least one side restraint for the purpose of restriction since either the re-useable shipping pallet with a telescoping member depending on the size of the windshield, the first lower resilient stop, the re-useable shipping pallet with at least one side restraint for engaging at least one windshield and

the re-useable shipping pallet with at least one side restraint for engaging at least one windshield can be used by itself. At most, the claims appear to be directed to independent features which may be usable together in a single combination, but the final product as recited in Groups II-V are independent and distinct from each other

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed does not require the particulars of foldable toward the base and latch and pin mechanism. The subcombination has separate utility such as being used by itself as a gate.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed does not require the particulars of the size of the windshield and for retaining the windshields on the pallet. The subcombination has separate utility such as being used by itself to measure the height of an object or person.

Inventions I and IV are independent and distinct because there are no relationship between the pallet and the first lower resilient stop for the purpose of restriction since either the

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pallet and the resilient stop can be used by itself. At most, the claims appear to be directed to independent features which may be usable together in a single combination, but the final product as recited in Groups I and IV are independent and distinct from each other

Inventions I and V are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed does not require the particulars of the restraint for engaging at least one windshield and the restraint engageable with the transverse member by a ratchet and pawl. The subcombination has separate utility such as being used by itself to push an article other than windshield.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their different classification and because they are capable of separate manufacture, use and sale, restriction for examination purposes as indicated is proper.

A telephone call was made to applicant's representatives on 3/29/06 to request an oral election to the above restriction requirement, but did not result in an election being made.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



lkb
March 30, 2006

Luan K. Bui
Primary Examiner
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